

Notice of Allowability

Application No.

09/816,016

Examiner

Andrea M. Valenti

Applicant(s)

COLWELL, BETSY P.

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 29 January 2007.
2. ☒ The allowed claim(s) is/are 50-53,55-58 and 61-64.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____



Andrea M. Valenti
Primary Examiner
Art Unit 3643

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David M Driscoll on 11 April 2007.

The application has been amended as follows:

Claim 50, line 11, "a base having" was changed to --a feeder base having--

Claim 50, line 13, "sidewall;" was changed to --sidewall; wherein the lower peripheral edge of the selective housing cylindrical sidewall rest directly against the feeder base flange and the feeder base flange is a continuous annular convex flange that has the lower peripheral edge of the selective housing cylindrical sidewall secured at the flange by means of a plurality of spacedly disposed fasteners;--

Claim 50, line 15, "selective housing;" was changed to --selective housing; locator tabs on the interior surface of the cover to assist with positioning of the cover on the selective housing; wherein the only support between the upper edge of said selective housing and the cover is by virtue of the resting engagement therebetween;--

Claim 50, line 32-33, "the base of the selective housing" was changed to --the feeder base--

Claim 50, line 35, "in said base" was changed to --in said feeder base--

Claim 54 was cancelled

Claim 55, line 1, "the top" was changed to --the cover--

Claim 59 was cancelled

Claim 60 was cancelled

Claim 62, line 2, "base is" was changed to --feeder base is--

Allowable Subject Matter

Claims 50-53, 55-58, 61-64 are allowed.

The following is an examiner's statement of reasons for allowance:

Cited references U.S. Patent No. 4,030,451; U.S. Patent No. 3,301,217; U.S. Patent No. 5,452,682; U.S. Patent No. 6,539,892; U.S. Patent No. 3,568,641; U.S. Patent No. 4,355,597; U.S. Patent No. 4,327,669; U.S. Patent No. 5,558,040; U.S. Patent No. 5,791,286; U.S. Patent No. 5,823,541; DUNCRAFT, Winter & Holidays 1999 "specialties for Enjoying Wild Birds" Penacook, NH pgs 1-48 (items 180 M, 183M, 181M, 188M, 161M) teach a selective bird feeder, comprising: a selective housing including a cylindrical sidewall having respective upper and lower peripheral edges, said cylindrical sidewall having means defining multiple apertures; a cylindrical seed holder contained coaxially within and spaced apart from the cylindrical sidewall of the selective housing; said seed holder including a base, a peripheral top edge and a cylindrical seed housing that together define a compartment for bird seed; the diameter of said selective housing being greater than the diameter of said seed holder so as to provide a sufficient space therebetween to allow selected birds to enter and move freely therein; a base

Art Unit: 3643

having an apertured center area; a cover separate from and supported at least on the upper peripheral edge of the cylindrical sidewall of the selective housing; said cover including a lower peripheral edge and an upper edge defining a centrally disposed aperture for receiving therethrough the peripheral top edge of said seed holder seed housing when the cover is positioned on the cylindrical sidewall of the selective housing; the diameter of the lower peripheral edge of the cover being greater than the diameter of the cylindrical sidewall of the selective housing so that the lower peripheral edge of the cover extends beyond the cylindrical sidewall; the lower peripheral edge of the cover further disposed at a location below the top end of the cylindrical sidewall when the cover is so disposed on the cylindrical sidewall a seed holder cap engaging and closing the peripheral top edge of the cylindrical seed holder; a hanger attached to the seed holder and for also supporting the seed holder cap to enable the cap to be slid therealong to provide access to the seed holder housing; a clamp separate from said hanger; said clamp comprising an annular member, and a fastening member constructed and arranged to removably secure the base of the selective housing to the base of the seed holder; said fastening member comprising a threaded plug that is adapted to removably connect, through the centrally disposed aperture in said base to the base of said seed holder; and a feeder base.

The prior art of record all fails to show, and fails to make obvious, either alone and/or in combination a selective feeder with a cylindrical selective housing, a cylindrical seed holder contained in the housing and extending through an aperture in a cover, a holder cap, and a feeder base having an apertured center area for supporting the seed

Art Unit: 3643

holder base and a peripheral flange for supporting the lower peripheral edge of the selective housing cylindrical sidewall; wherein the lower peripheral edge of the selective housing cylindrical sidewall rest directly against the feeder base flange and the feeder base flange is a continuous annular convex flange that has the lower peripheral edge of the selective housing cylindrical sidewall secured at the flange by means of a plurality of spacedly disposed fasteners; locator tabs on the interior surface of the cover to assist with the positioning of the cover on the selective housing wherein the only support between the upper edge of the selective housing and the cover is by virtue of the resting engagement therebetween; a clamp disposed between said cover and seed holder cap to prevent removal of said cover and the clamp comprising an annular member that is secured about the seed holder cylindrical housing.

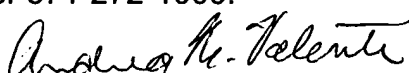
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

Art Unit: 3643

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrea M. Valenti
Primary Examiner
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11 April 2007